

MDL 1570 PLAINTIFFS' EXECUTIVE COMMITTEES

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

Plaintiffs' Executive Committee for Personal Injury and Death Claims	Plaintiffs' Executive Committee for Commercial Claims
Ronald L. Motley (1944-2013) Jodi Westbrook Flowers / Donald A. Migliori, <i>Co-Chairs</i> MOTLEY RICE LLC James P. Kreindler, <i>Co-Chair</i> KREINDLER & KREINDLER LLP	Stephen A. Cozen, <i>Co-Chair</i> Sean Carter, <i>Co-Chair</i> COZEN O'CONNOR
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VIA ECF

October 9, 2020

The Honorable Sarah Netburn, U.S. Magistrate Judge
 United States District Court for the S.D.N.Y.
 Thurgood Marshall U.S. Courthouse, Room 430
 40 Foley Square
 New York, NY 10007

Re: *In Re: Terrorist Attacks on September 11, 2001, 03 MDL 1570 (GBD) (SN)*

Dear Judge Netburn:

The Plaintiffs' Executive Committees ("PECs") write to respond to the Court's inquiry regarding the status of short-form procedure referenced in the Court's Order at ECF No. 6482. The Court correctly notes the discussion during the August 5, 2020 hearing of the use of short forms analogous to those the Court previously approved in the context of Saudi Arabia and Iran claims. ECF No. 6482 at 1, citing Aug. 5, 2020 Hrg Tr. at 45:18-19; *see also id.* at 43:3-20. At this time, however, for the reasons explained below, the PECs, with the agreement of counsel representing the Maher, Ryan, and Breitweiser Plaintiffs ("Maher Plaintiffs"), ask that the Court defer consideration of approved Short Form's related to Sudan filings. Relatedly, the Maher Plaintiffs' counsel have acknowledged that those cases will not require separate briefing on Sudan's anticipated motion to vacate the defaults and for dismissal.

At the time of the August 5 hearing, the principal impetus for the short forms concerned the anticipated needs of the Maher Plaintiffs. The PECs' expectation at the time was that the short forms the Court anticipated would be comparable to the short forms the Court approved in the Court's October 28, 2019 Order for use in the context of Saudi Arabia and Iran. *See* ECF No. 5234.

In the period that followed the August 5, 2020 hearing, the PECs worked to draft short forms modeled from the short forms approved in the Saudi Arabia and Iran context. However, because the new short forms would include specific references to the consolidated Sudan pleadings [ECF No. 6427] and the *Ashton* Sudan pleadings [ECF No. 6429] filed on September 4, 2020, the forms could not be finalized until after the pleadings were finalized and filed on September 4, 2020.

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After Plaintiffs filed those new pleadings on September 4, 2020, as this Court is aware, Sudan objected to those filings, *see* ECF No. 6462, and the Court has ordered the PECs to respond to those objections, and to propose short form procedures or explain why they are not doing so. ECF No. 6482 at 2. At least to some degree, the Court's consideration of how to address Sudan's objection, along with the PECs' response (filed today), may also inform aspects of how any short forms would be drafted for the Court's consideration.

In addition, and perhaps most importantly, the PECs have conferred with the Maher Plaintiffs' counsel to inquire of their specific needs, and have learned that the contemplated short forms comparable to those the Court has previously approved are not necessary for the Maher Plaintiffs and would not meet their purpose. As you may recall, at present, the Maher Plaintiffs have switched counsel but remain sub-plaintiffs in cases represented by their original counsel. Their stated goal has been to sever themselves from those cases into distinct cases represented by their new current counsel. But, having conferred about the issue, Maher Plaintiffs' counsel (and the PECs) now understand that the anticipated short forms do not function to meet that purpose. Indeed, these plaintiffs are already in active cases against Sudan, are already part of the newly-filed pleadings.

Counsel for the Maher Plaintiffs have advised the PECs that they intend to remain in the cases in which they are currently plaintiffs, albeit represented by new counsel who will enter appearances in those cases, unless and until a significant conflict arises regarding the litigation, and that in the event of such conflict, the Maher plaintiffs would seek to sever their claims.

Given the above circumstances, the PECs (with the agreement of the Maher Plaintiff's counsel) ask that the Court defer consideration of approval of short form complaints regarding Sudan at this time.

Respectfully submitted,

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